



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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Ref: 8ENF-AT-P, ICIS 3601188253

SENT VIA EMAIL
DELIVERY RECEIPT REQUESTED

Mr. Mike Adams, Owner
Pure Maintenance Holdings LLC
1664 Woodland Park Drive, Suite 301
Layton, Utah 84041
mike@puremaintenance.com

Re: Notice of Violation and Opportunity to Confer: Federal Insecticide, Fungicide, and Rodenticide Act

Dear Mr. Adams:

The Environmental Protection Agency is concerned about multiple violations of the Federal Insecticide Fungicide and Rodenticide Act (FIFRA) at the Pure Maintenance Holdings LLC's (Pure Maintenance) Mountain View Maintenance Facility (Facility) located at 1664 Woodland Park Drive Suite 301, Layton, Utah 84041 (Facility). This letter summarizes the EPA's findings of potential violations and provides information on how we may move forward to resolve these violations.

I. Background.

On April 9, 2020, the EPA issued an advisory letter to you, as owner of the Facility, stating:

On April 2, 2020, the EPA was informed that Mountain View Maintenance, LLC is distributing the pesticide Instapure, EPA Reg. No. 70299-19-95371, and is making claims that this pesticide could be used as a disinfectant against the coronavirus. The label does not include any directions for such use and the product is not specifically registered with the EPA as a disinfectant against coronavirus. Mountain View Maintenance, LLC is in violation of FIFRA section 12(a)(2)(G), 7 U.S.C. § 136j(a)(1)(A), for using a registered pesticide in a manner inconsistent with its label directions and section 12(a)(1)(B) of FIFRA, 7 U.S. Code § 136j (a)(1)(B), for making claims as a part of its distribution and use that substantially differ from any claims made for it as a part of the statement required in connection with its registration.

The advisory letter was based on information regarding the coronavirus and disinfection discovered on the website (<https://puremaintenance.com/corona>) and an associated corporate sponsored news article (<https://www.ksl.com/article/46736965/utah-business-busy-cleaning-homes-buildings-nationwide-during-coronavirus-outbreak>). You were advised to ensure your activities were compliant with FIFRA, 7 U.S.C. §§ 136 to 136y, and its implementing regulations, 40 C.F.R. Parts 150-180.

On May 27, 2020, EPA FIFRA Inspector Christine Tokarz sent an email to you stating:

Although this case is pending review, due to the immediate public health emergency we are writing to reiterate the following problematic issues:

1. InstaPURE, EPA# 70299-19-95371, is not labeled for use against the COVID-19 virus or human coronavirus.
2. EverPURE, EPA# 87583-2, is not labeled for use against the COVID-19 virus or human coronavirus.
3. The advertisement videos on the Pure Maintenance website and other associated social media outlets, may have false or misleading claims regarding pesticide use and the human coronavirus.

On October 20, 2020, the EPA conducted an inspection at the Facility. The EPA inspector collected: photographs of pesticide containers and labels, including for the pesticides **Sanidate 5.0** and **InstaPURE**; sales invoices for application services involving the use of **InstaPURE** and **EverPURE** a copy of a supplemental distributor agreement for **Sanidate 5.0**; and training manual materials. The EPA inspector also asked questions regarding Respondent's use of the products.

The EPA also conducted inspections at Pure Maintenance licensees' facilities, including an inspection on July 29, 2020, of Pure Maintenance of Colorado, 4885 Marshall Street, Suite 106, Wheat Ridge, Colorado 80033; on October 15, 2020, an inspection at Moldbusters, 3547 W 6100 S, Wellsville, Utah 84339; and on October 26, 2020, an inspection at Clean Air, 1435 W Sunset Blvd, St. George, Utah 84770 ; and Hawaii Unified Industries LLC dba HUI Restoration, 84-1170 Farrington Highway, Suite C-1, Waianae, Hawaii 96792 on June 12, 2020. Additionally, the EPA has reviewed state inspections of Pure Maintenance Licensees in Oregon, Nevada, Alaska and California conducted since January 2020. Invoices, manuals, and other information regarding sales, purchase, use of products were collected as part of these investigations.

The Pure Maintenance Instruction Manual made the following false and misleading claims:

"The Pure Maintenance Dry Fog process is actually very safe." (2019)

"Q: Is it safe? A: Absolutely. The products are all EPA approved, green products. They have actually been muscle tested by some of the leading practitioners in the nation against their most sensitive clients and have never shown a negative reaction." (2019)

"Q: Does it kill bugs? A: They certainly don't like it and we have seen a lot of scenarios where it has, but the EPA hasn't approved it as a pesticide so we try to avoid making any claims about bugs." (2019)

[Regarding InstaPure:]

- "Mixing is very simple. For a 10 percent mix, pour out 13 ounces of water from a one gallon container of distilled water. Add 13 ounces of InstaPURE, which will bring the one gallon container back to full, and shake. (Our formula gives us latitude to mix from 10 percent (13 ounces) to 15 percent (19 ounces) depending on humidity)" (2019)
- "As you progress through the home, periodically check to make sure you are achieving a dry fog, and make adjustments to liquid tank pressure as needed." (2019 and 2020)

[Regarding EverPure:]

- "EverPURE can now be mixed. Empty out approximately 10 ounces of distilled water from 1 gallon container and add one 8 ounce bottle of EverPURE. Shake very very well! It may be helpful to pour 1/3 of container out into designated tank to allow for even more thorough shaking." (2019)
- "ALERT I - Getting items wet is not the goal with EverPURE." (2019 and 2020)

The EPA also reviewed online materials including Pure Maintenance's website:

<https://puremaintenance.com/>, Facebook page: <https://www.facebook.com/PureMaintenanceHQ/>, and

other online marketing materials, such as KSL news article, <https://ksltv.com/434360/utah-business-busy-cleaning-homes-buildings-nationwide-amid-coronavirus-outbreak/>, which stated:

We can't stop the virus from spreading person to person," owner Brandon Adams said. "Where we can help is stopping the spread of the virus from person to surface to another person." The company said their dry fog technology qualifies under products the EPA said can be used to kill COVID-19. "The fog is able to denature mold, bacteria and viruses," Adams said. "Coronavirus is an envelope virus, which is actually really low on the spectrum of things that are easy to kill." It may be easy to kill, but Adams said that is if you can get to it all. He said their second solution focuses on preventing the virus from sticking around if introduced again. "It actually pierces the outer membrane of the spore of the cell and denatures it on contact," he said.

The EPA's inspection of online materials demonstrates that Respondent's website contains various false and misleading pesticidal claims including:

"We begin by filling your building or room with an EPA registered dry fog called InstaPure. This fog is ultra-penetrating and leaves absolutely no residue. Once the fog has filled the capacity of the room and has made contact with all surfaces, it remains suspended in the air for the desired dwell time until all germs are destroyed....Treats Ring Worms, MRSA, Staph, CDiff, Flu Virus, Hand Foot and Mouth, H1N1 and more." [<https://puremaintenance.com/pathogen-removal>, January 13, 2021]

"Pathogenic contamination can cause illness and disease if not properly eradicated. We use the same dry fog technology that we use to kill mold, but to create a germ barrier that remains suspended in the air until all germs are destroyed." [<https://puremaintenance.com/pathogen-removal>, January 13, 2021]

"Pure Maintenance then begins the second step of the system. A similar fog to step one, and EPA registered fog called EverPure is introduced to the room. EverPure is dry and leaves no residue but creates an antimicrobial barrier on all surfaces of the room that will ensure that for 90 days your home or business will be germ-free." [<https://puremaintenance.com/pathogen-removal>, January 13, 2021]

Summary of Alleged Violations

InstaPURE

Based on the invoices and other information EPA collected and reviewed, between April 8, 2020 and October 20, 2020, Pure Maintenance performed at least sixteen applications, using its "dry fogging" system applying **InstaPURE**. This includes eleven invoices for "Mold Remediation Services" using **InstaPURE**, and five invoices for "Sanitization Services" using **InstaPURE**. Pure Maintenance's website, <https://puremaintenance.com/>, was included on all of these invoices.

Based on purchase records collected and reviewed from the federal and state inspections referenced above, Pure Maintenance sold at least 16 bottles of **InstaPURE** to various licensees since January 2020.

The EPA found bottles labelled "**InstaPURE**" at Pure Maintenance during the October 20, 2020 inspection. Based on the licensing between Pure Maintenance and its licensees, claims made online, in the use manual, and on invoices, **InstaPURE** is intended to be used as a pesticide, and thus is a "pesticide" within the meaning of section 2(u) of FIFRA, 7 U.S.C. § 136(u) and 40 C.F.R. § 152.15.

The bottles of **InstaPURE** at the Facility during the inspection were labelled with EPA Registration

Number 70299-19, which is the registration number for **Sanidate 5.0**. Under 40 C.F.R. § 152.132, a registrant may distribute or sell a registered product under another person's name and address under a "supplemental distribution" provided *all* the following conditions are met:

- (a) The registrant has submitted to the Agency for each distributor product a statement signed by both the registrant and the distributor listing the names and addresses of the registrant and the distributor, the distributor's company number, the additional brand name(s) to be used, and the registration number of the registered product.
- (b) The distributor product is produced, packaged and labeled in a registered establishment operated by the same producer (or under contract in accordance with §152.30) who produces, packages, and labels the registered product.
- (c) The distributor product is not repackaged (remains in the producer's unopened container).
- (d) The label of the distributor product is the same as that of the registered product, except that:
 - (1) The product name of the distributor product may be different (but may not be misleading);
 - (2) The name and address of the distributor may appear instead of that of the registrant;
 - (3) The registration number of the registered product must be followed by a dash, followed by the distributor's company number (obtainable from the EPA upon request);
 - (4) The establishment number must be that of the final establishment at which the product was produced; and
 - (5) Specific claims may be deleted provided that no other changes are necessary.

Each of these conditions were not met. The label of the **InstaPURE** product was not the same as that of the registered product, and the numerous discrepancies between the **Sanidate 5.0** registered label and the labels on the product in Pure Maintenance's possession went beyond any variation permitted by regulation. Discrepancies included the absence of certain Personal Protective Equipment (PPE) language and User safety recommendations. We note that the supplemental distributor agreement was cancelled shortly after the inspection, with the EPA confirming cancellation on October 28, 2020.

Because the **InstaPURE** product did not meet the requirements of 40 C.F.R. § 152.132, **InstaPURE** could not be sold under the **Sanidate 5.0** registration number. Because **InstaPURE** does not meet the conditions for supplemental distribution under 40 C.F.R. § 152.132(b), (c), or (d) for **Sanidate 5.0** and is not otherwise registered with the EPA, **InstaPURE** is a pesticide that is not registered pursuant to section 3 of FIFRA, 7 U.S.C. § 136a. Therefore, **InstaPURE** is an unregistered pesticide.

Sale or distribution of an unregistered pesticide is a violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

Since **InstaPURE** is an unregistered pesticide, inclusion of an EPA registration number on the label is false and misleading because a registration number implies that a pesticide is registered. Furthermore, label claims regarding efficacy of the unregistered pesticide are also false or misleading because efficacy claims for unregistered pesticides have not been accepted by the EPA. Additionally, Pure Maintenance's website claimed that **InstaPURE** was effective against the Human Coronavirus when applied as a fog; such claims have not been accepted by the EPA and are false and misleading. **InstaPURE** is thus misbranded, pursuant to section 2(q)(1)(A) of FIFRA, 7 U.S.C. § 136(q)(1)(A) and 40 C.F.R. § 156.10(a)(5).

False and misleading claims for **InstaPURE** appeared on the company's website, as quoted above. These claims also constitute misbranding pursuant to 7 U.S.C. § 136(q)(1)(A), 40 C.F.R. § 156.10(a)(5).

Distribution or sale of a misbranded pesticide is a violation of section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

Sanidate 5.0

During the Oct 20, 2020 inspection, the EPA found bottles labeled **Sanidate 5.0**, Reg. No. 70299-19.

Due to the supplemental distribution agreement and information discovered during the inspection and online, the EPA believes Pure Maintenance was offering for sale or distribution **Sanidate 5.0**.

The registered label for the pesticide, **Sanidate 5.0**, Registration Number 70299-19, states that for disinfection, "Treated surfaces must remain visibly wet for ten (10) minutes."

The **Sanidate 5.0** registered label also has the following language:

- "ALL SURFACES MUST BE THOROUGHLY PRE-CLEANED PRIOR TO FOGGING.... This product may be applied by fogging to control the growth of non-public health microorganisms that cause decay and spoilage on hard, non-porous surfaces in food premises." (Emphasis added.)
- "FOR USE AS A VIRUCIDE AGAINST HUMAN CORONAVIRUS This product kills the following virus [...] when applied to hard, non-porous surfaces: *Human Coronavirus* [...] Apply use solution to hard, non-porous surfaces using a sponge, brush, cloth, mop, by immersion or coarse spray device. [...] Treated surfaces must remain visibly wet for ten (10) minutes." (Emphasis added.)

Sanidate 5.0 was not approved for use against virus causing Covid-19 until July 7, 2020.

Use of **Sanidate 5.0** against the human coronavirus prior to July 7, 2020 was use of a registered pesticide in a manner inconsistent with its labeling.

At all times, use of **Sanidate 5.0** against the human coronavirus via dry fogging (or any other process that does not leave treated surfaces visibly wet for ten (10) minutes) was, and is, use of a registered pesticide in a manner inconsistent with its labeling.

At all times, use of **Sanidate 5.0** against the human coronavirus on any surface not "hard, non-porous" was, and is, use of a registered pesticide in a manner inconsistent with its labeling.

Use of a registered pesticide in in manner inconsistent with its labeling is a violation of section 12(a)(2)(E) of FIFRA, 7 U.S.C. § 136j(a)(2)(E).

Claims made that **Sanidate 5.0** could be used against the human coronavirus prior to July 7, 2020 differed from any claims made for it as a part of the statement required in connection with its registration under section 136a of FIFRA.

Claims made that **Sanidate 5.0** could be used against the human coronavirus via dry fogging (or any other process that does not leave treated surfaces visibly wet for ten (10) minutes) differed from any claims made for it as a part of the statement required in connection with its registration under section 136a of FIFRA

Claims made that **Sanidate 5.0** could be used against the human coronavirus on any surface not “hard, non-porous” differed from any claims made for it as a part of the statement required in connection with its registration under section 136a of FIFRA.

Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B), provides that it shall be unlawful for any person in any State to distribute or sell to any person “any registered pesticide if any claims made for it as part of its distribution or sale substantially differ from any claims made for it as a part of the statement required in connection with its registration under section 136a of FIFRA.”

False and misleading claims for **Sanidate 5.0** appeared on the company’s website and training manual, as quoted above. These claims also constitute misbranding pursuant to 7 U.S.C. § 136(q)(1)(A), 40 C.F.R. § 156.10(a)(5).

Distribution or sale of a misbranded pesticide is a violation of section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

EverPURE

Based on the invoices and other information EPA collected and reviewed, between April 8, 2020 and October 20, 2020, Pure Maintenance had performed at least sixteen applications, using its “dry fogging” system applying **EverPURE**. Eleven invoices for “Mold Remediation Services” included dry fog process using **EverPURE**. Five invoices for “Sanitization Services” included dry fog process using **EverPURE**. Pure Maintenance’s website, <https://puremaintenance.com/>, was included on all of these invoices.

Based on purchase records collected and reviewed from the federal and state inspections referenced above, Pure Maintenance sold at least 80 bottles of **EverPURE** to various licensees since January 2020.

Based on the licensing between Pure Maintenance and its licensees, claims made online, in the use manual, and on invoices, **EverPURE** is intended to be used as a pesticide, and thus is a “pesticide” within the meaning of section 2(u) of FIFRA, 7 U.S.C. § 136(u) and 40 C.F.R. § 152.15.

The EPA found bottles labelled “**EverPURE**” at Pure Maintenance of Colorado’s facility, located at 4885 Marshall Street, Suite 106, Wheat Ridge, Colorado 80033, during the July 29, 2020 inspection. Invoices, employee statements, and product labeling, demonstrated that these **EverPURE** bottles were sold and distributed by Pure Maintenance.

At the July 29, 2020 inspection, the EPA inspector observed that Respondent had **EverPURE** containers of two different sizes: 8 ounces and 5 gallons.

The 8-ounce **EverPURE** containers only bore the following words:

EVERPURE 8oz
A Pure Maintenance Product
Not Labeled For Resale
For use by Pure Maintenance affiliates only

The 5-gallon **EverPURE** container bore a shipping label indicated that the product had been shipped from Pure Maintenance, 1664 Woodland Park Dr #301, Layton UT 84041. The label also stated following words:

PURE MAINTENANCE
EVERPURE
BIOPROTECT AM500
5 GALLONS
90 DAYS OF PROTECTION
EPA#87583-5
NOT LABELED FOR RETAIL SALE, FOR PURE MAINTENANCE LICENSEES ONLY

EverPURE, as found during on-site field inspections, has never been registered with the EPA.

Although previous communications had led EPA to believe that **EverPURE** was **BioProtect AM 500**, Reg. No, 87583-2, as reflected in EPA's prior communications. However, there was no supplemental distributor agreement for **BioProtect AM 500** to be sold as **EverPURE** and **EverPURE** is not otherwise registered with the EPA.

Distribution or sale of an unregistered pesticide, **EverPURE**, is a violation of section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

EverPURE is also not on EPA's List N, and therefore, not approved by the EPA for use against the novel coronavirus.

The **EverPURE** containers that did not include the producing establishment registration number (EPA Est.) of the final establishment at which the product was produced, in violation of Section 2 of FIFRA, 7 U.S.C. §§ 136(1)(D) 136(q)(2)(C)(i) and 40 C.F.R. §§ 156.10(a)(1)(v) and 156.10(f).

The **EverPURE** containers were also misbranded for the following reasons. The **EverPURE** containers were misbranded pursuant to 40 C.F.R. § 156.10(a)(1)(E) because "any word, statement, or other information required under authority of this subchapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use." The **EverPURE** containers were misbranded pursuant to 40 C.F.R. § 156.10(a)(2)(B) because "the labeling does not contain a statement of the use classification under which the product is registered". The **EverPURE** containers were misbranded pursuant to 40 C.F.R. § 156.10(a)(2)(C) because "there is not affixed to its container, and to the outside container or wrapper of the retail package, if there be one, through which the required information on the immediate container cannot be clearly read, a label

bearing—(1) the name and address of the producer, registrant, or person for whom produced; (ii) the name, brand, or trademark under which the pesticide is sold;... and (iv) when required by regulation of the Administrator to effectuate the purposes of this subchapter, the registration number assigned to the pesticide under this subchapter, and the use classification...” **EverPURE** containers were misbranded because the label did not bear the “product registration number as prescribed in [40 C.F.R. § 156.10(e)]” as required by 40 C.F.R. § 156.10(a)(iv). The **EverPURE** containers were misbranded because the label does not bear an “ingredient statement as prescribed in [40 C.F.R. § 156.10(g)]” as required by 40 C.F.R. § 156.10(a)(vi). The **EverPURE** containers were misbranded because the label does not bear the “directions for use as prescribed in [40 C.F.R. § 156.10(i)]” as required by 40 C.F.R. § 156.10(a)(viii). The **EverPURE** containers were misbranded because the label does not bear the “use classification as prescribed in [40 C.F.R. § 156.10(j)]” as required by 40 C.F.R. § 156.10(a)(ix).

False and misleading claims for **InstaPURE** appeared on the company’s website, as quoted above. These claims also constitute misbranding pursuant to 7 U.S.C. § 136(q)(1)(A), 40 C.F.R. § 156.10(a)(5).

Distribution or sale of a misbranded pesticide is a violation of section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

II. Findings.

Based on these materials, the EPA has found the potential FIFRA violations, including:

- Distribution or sale of an unregistered pesticide, **InstaPURE**, in violation of section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).
- Distribution or sale of a misbranded pesticide, **InstaPURE**, in violation of section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).
- Distribution or sale of a registered pesticide, **Sanidate 5.0**, in in manner inconsistent with its labeling is a violation of section 12(a)(2)(E) of FIFRA, 7 U.S.C. § 136j(a)(2)(E).
- Distribution or sale of a registered pesticide, **Sanidate 5.0**, where claims made for it as part of its distribution or sale substantially differed from any claims made for it as a part of the statement required in connection with its registration under section 136a of FIFRA in violation of Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B).
- Distribution or sale of a misbranded pesticide, **Sanidate 5.0** in violation of section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).
- Distribution or sale of an unregistered pesticide, **EverPURE**, in violation of section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).
- Distribution or sale of a misbranded pesticide, **EverPURE**, in violation of section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E).

III. Opportunity to Confer.

By this letter, the EPA is offering you an opportunity to enter into settlement discussions for the purpose of reaching a mutual agreement regarding an appropriate penalty in this matter, prior to the issuance of an administrative complaint. **If you are interested in engaging in a pre-filing discussion, please contact Shaula Eakins, Senior Assistant Regional Counsel, via email at eakins.shaula@epa.gov or via phone at (303) 312-6317 within thirty days of your receipt of this letter.**

In determining the amount of any penalty to propose in an enforcement action for violations of FIFRA, section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), requires the EPA to take into consideration the appropriateness of the penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation. For more information, the EPA's "Enforcement Response Policy for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)" (December 2009) can be found at: <http://www2.epa.gov/sites/production/files/documents/fifra-erp1209.pdf>

Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(1), provides for the assessment of administrative penalties up to \$20,528 for each day violation, as adjusted for inflation. 85 Fed. Reg. 83820 (Dec. 23, 2020).

If you believe that you do not have the financial ability to pay EPA's proposed penalty, please contact us so that we can instruct you on how to provide the EPA with appropriate financial documentation to substantiate such a claim. Such documentation will include, among other things, several years of signed federal income tax returns and financial statements, in addition to an official EPA financial form that must be completed before the EPA can conduct an ability to pay analysis. Please contact us with your inability to pay request at the earliest opportunity.

The EPA has agreed to notify small businesses of their rights pursuant to the Small Business Regulatory Enforcement Fairness Act, <https://www.epa.gov/sites/production/files/2017-06/documents/smallbusinessinfo.pdf>. Please note that SBREFA neither eliminates your responsibility to comply with FIFRA nor creates any new rights or defenses under law.

Sincerely,

David Cobb, Section Chief
Toxics and Pesticides Enforcement Section
Enforcement and Compliance Assurance Division

cc: Blaine Rawson
Counsel for Pure Maintenance
brawson@rqn.com